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BOOK REVIEWS.

EVOLUTION OF LAW: SELECT READINGS ON THE ORIGIN AND DEVELOPMENT OF LEGAL INSTITUTIONS.

Volume I. **SOURCES OF ANCIENT AND PRIMITIVE LAW.** Compiled by Albert Kocourek, Professor of Jurisprudence in Northwestern University, and John H. Wigmore, Professor of Law in Northwestern University.

Volume II. **PRIMITIVE AND ANCIENT LEGAL INSTITUTIONS.** Compiled by Albert Kocourek, Professor of Jurisprudence in Northwestern University, and John H. Wigmore, Professor of Law in Northwestern University. Boston: Little, Brown, and Company, 1915.

A generation ago, at the time of the discovery by our historical brethren of the "Seminar" ("Made in Germany"), there seemed to be a prospect that our study and teaching of history was to be based entirely on the original source. But for some reason this lofty expectation has never been fully realized, possibly because our "college man," who was specializing on football and amateur theatricals, could not stand the pressure of the scholarly method. At present most of our teachers of history seem to have turned to the lecture, accompanied by the more or less desultory illustrative reading, as the staple of instruction. About contemporaneous with the beginning of this movement in the historical field, there appeared a similar phenomenon in the then despised pedagogic Nazareth, the law school. There the study of sources found a more congenial atmosphere, and it is largely due to the case-method of study that our law schools are now turning out young men with a grounding at least in the principles of juristic science and a scholarly attitude toward their profession, rather than those who are to pursue law as a trade, exercised frequently to the sorrow of the community in which they may be placed.

The compilation of these volumes seems to have been suggested by the hope that the law schools might carry their legal method over into the field of legal history and apply it there with equal success. The first volume is a source-book or an historical case-book, beginning with the accounts in literature of ancient laws and institutions, citing Homer, Plutarch, Caesar, Tacitus and an Icelandic Saga. Following this are modern observations on retarded peoples in various quarters of the world: Australian and African tribes, American Indians and Eskimos. The section on ancient and primitive laws and codes contains citations of important enactments from the *Code of Hammurabi* and the *Pentateuch* down to the Anglo-Saxon *Dooms* and the laws of ancient Wales. The last part of this volume contains accounts of trials in many of the ancient systems of law, and documents, such as wills and contracts, taken from the same sources. The second volume contains selections from modern writers on the nature and origin of legal institutions, the relation of law to the state, and chapters on persons, things and pro-

cedure. A third volume is promised on the *Formative Influences of Legal Development*.

The arrangement of the two volumes makes it possible to use the first volume as a real case-book, from which the evolution of legal principles may be worked out on the inductive method. As the selections deal with the laws of different periods and widely separated peoples, they furnish an excellent basis for a scientific study of comparative law, and a proper use of these volumes will go far toward redeeming comparative law from the stock reproach of superficiality and indefiniteness. The editors disclaim any particular metaphysical theory upon which the compilation has been made, but suggest as a working formula for its use, "the essential unity of human nature." Of course the philosopher is ready with his statement that one can never reach the universal through generalization from particulars, but the answer to this given by legalists, even the most enlightened and progressive, is that jurisprudence has a practical end in view, namely, the amelioration of our law, and the study of legal ethnology—about which most lawyers and students of law know little enough—seems to be the best means for attaining that end.

The most striking characteristic of the second volume is the interesting nature of its contents, and to the busy lawyer who has time only to read up the subject but not to study it intensively, it is suggested that the second volume should be read first and the selections of the other volume used, as is the illustrative case, to supplement the text.

Many of the selections in the second volume have been translated by Professor Kocourek and they are all well done. Most of the translations of the first volume are taken from the standard English translations. *The Twelve Tables* are translated by Dean Wigmore. The editors lay claim only to the modest title of compilers, but they certainly have the right to the credit of having made possible the application of the case-method of study in a new and fruitful field.

J. H. D.

THE LAW OF ARREST IN CIVIL AND CRIMINAL ACTIONS, by Harvey Cortland Voorhees of the Boston Bar. Second Edition. Boston: Little, Brown and Company, 1915. Pp. xlivi, 287.

This little book seems to have earned for itself in the ten years since its first appearance, the right to be called, what its author in the preface calls it, a "*vade mecum*" on this branch of the law.

The preface of the first edition, and more definitely that to the second, indicates that the author had in mind its usefulness to the police officer as quite as important as that to the practicing lawyer. The author has in mind the practical rather than the theoretical. It is essentially a manual, a book of rules rather than a treatise showing the development and application of principles.

It must be said of it that for what it purports to be it is to be commended both as to its plan and form of statement.

Few books attempt a formulation of the rules of law on any subject, however narrow, but some lawyer somewhere will be found objecting to